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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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RAYMOND GARCIA CARMONA, JR.,

Petitioner,

*versus*

WARDEN, FCI BEAUMONT MEDIUM,

Respondent.

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CIVIL ACTION NO. 1:22-CV-184

**MEMORANDUM ORDER OVERRULING PETITIONER’S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Raymond Garcia Carmona, Jr., an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends dismissing the above-styled petition.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge’s Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes petitioner’s objections are without merit. Petitioner attacks the sentencing court’s amendment of the judgment to reflect two consecutive sixty-month sentences. Petitioner claims the court originally sentenced him to concurrent

sentences.<sup>1</sup> As the magistrate judge observed, petitioner's challenge to the judgment is properly brought as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Since petitioner was convicted in the Northern District of Texas, this court is without jurisdiction to entertain a § 2255 motion. Additionally, petitioner's claim does not meet the criteria required to support a claim under the savings clause of § 2255. *See Reyes-Requena v. United States*, 243 F.3d 893 (5th Cir. 2001). Further, as part of his plea agreement, petitioner agreed to waive his right to pursue post-conviction relief under 28 U.S.C. § 2241. Therefore, the petition should be dismissed.

### ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 31st day of October, 2022.



MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The sentencing court did, in fact, sentence petitioner to two 120-month concurrent sentences. However, the sentencing court amended the judgment to reflect two consecutive 60-month sentences. *See United States v. Gonzales*, No. 1:08cr43 (#194) (N.D. Tex. Oct. 9, 2009).